



121 STATE STREET
ALBANY, NEW YORK 12207-1693
TEL: 518-436-0751
FAX: 518-436-4751

DAVID B. MORGEN
DIRECT TEL.: (518) 689-7238
E-MAIL: DMORGEN@HINMANSTRAUB.COM

October 24, 2023

VIA ECF

Hon. Robert E. Littlefield, Jr.
United States Bankruptcy Court, Northern District of New York
James T. Foley United States Courthouse
445 Broadway
Albany, New York 12207

Re: *In Re Good Samaritan Lutheran Church Health Care Center, Inc. et al.*
Case No. 19-12215

Dear Judge Littlefield:

We represent Delmar SNF Operations Associates LLC (“Delmar Operations”), which is the receiver and applicant to be licensed operator of the nursing home owned by one of the Debtors, and Delmar AH Operations Associates LLC, which is the applicant to be the licensed operator of the adult home owned by one of the Debtors. The nursing home is now known as Delmar Center for Rehabilitation and Nursing (“Delmar Center”) and the adult home is now known as Albany Center for Independent Living (“Albany Center”). I write to provide the Court with a brief status update in advance of the Section 105 hearing scheduled for October 25, 2023.

During the October 18, 2023 Section 105 hearing, counsel for Delmar Operations and the Attorney General appearing on behalf of the New York State Department of Health (“DOH”) indicated that, as of that time, Delmar Operations had responded to all outstanding requests for additional information from DOH related to the change of ownership (“CON”) application for Delmar Center. On October 19, DOH sent a further request for additional information to Delmar Operations concerning certain transaction-related documents, and Delmar Center requested clarification of certain of DOH’s requests on October 20. DOH responded to the request for clarification on October 23.

Delmar Operations is submitting responses to DOH’s requests before the close of business today. However, there is one matter that will require judicial assistance. Specifically, we have learned that the Purchase and Sale Agreement between the Debtor and Delmar SNF Realty Associates, LLC (the “NH PSA”) previously approved by the Court (Dkt. No. 108-2) must reflect Solomon Klein, as managing member, rather than by the individual who was the managing member in 2020 when the document was filed with the Court.

As the Court is aware, the change in ownership for Albany Center proceeds through a different DOH process which does not involve a vote by the Public Health and Health Planning Council. Although we have not yet received formal correspondence from DOH concerning changes which may be necessary for Albany Center, we anticipate that the Purchase and Sale Agreement between the Debtor and Delmar AH Realty Associates, LLC (the "AH PSA") will need to be changed consistent with the NH PSA.

Sections 18.4 of the AH PSA and NH PSA are identical in this regard. They both define a change in membership of the purchaser as an "Assignment" which requires consent of the Debtors and judicial approval.

We have conferred with the Plan Administrator and, on behalf of the Debtors, he consents to the change in membership of the entities. Accordingly, we respectfully submit the attached proposed Stipulation and Consent Order approving the assignments. We respectfully request that this be so-ordered as soon as possible in order to facilitate the transaction.

The status update provided in this letter may be attributed to my clients only. We are not requesting that the Section 105 hearing be adjourned. We will be in attendance tomorrow, and Mr. Klein's personal counsel will participate via telephone, in order to provide all parties an opportunity to address any questions which may arise. We respectfully request that, in order to facilitate expeditious discussion of any questions, agency counsel from DOH be available by telephone at the time of the hearing.

Respectfully submitted,



David B. Morgen
Enclosure

cc: Counsel of Record (via ECF)
Michael Gurman, Esq. (personal counsel for Solomon Klein)